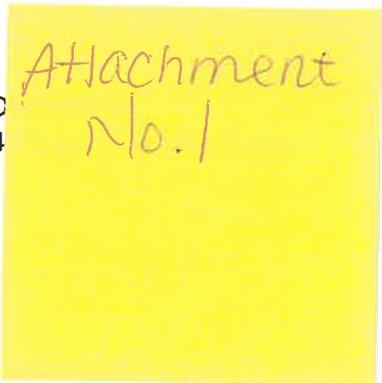


Julie Richardson

From: DeWayne Juhnke <dgjuhnke@yahoo.com>
Sent: Tuesday, November 19, 2019 4:11 PM
To: Julie Richardson
Cc: assessor@co.benton.wa.us
Subject: Re: W.R. 11-19-19 meeting for BLM Patent easement New D
Attachments: Sec 6 Lot 123 New City of West Richland config. 2019.pdf; 48th Ave - Private road request.pdf



To whom it may concern:

SUMMARY FOR LOT 123 SECTION 6 OF WILLAMETTE HEIGHTS

Congress was created by the Constitution of the United States and first met in 1789. The Small Tracts Act (STA) of 1938, enacted by Congress, was about the only method of making federal land available to persons looking for small acreages. Local counties were enthusiastic about 'getting lands on the tax rolls' and were not concerned about infrastructure (roads, water, power, schools) to support such development.

The State of Washington, included in the Oregon Territory, title to which was established 1846 and admitted in the Union 1889, retains records in the Oregon State Office of the Bureau of Land Management (BLM) in Portland, Oregon.

The State of Washington established Benton County in 1905. The mission of the Benton County Assessor's office is to administer a property assessment system which meets constitutional and statutory requirements and is done in accordance with Washington State Laws and Administrative Codes. The office must also maintain land records which can encompass segregation's of plats, "short and long" and consolidations. The assessor works closely with the Washington State Department of Revenue to implement **RCW 84.36.210** that easement rights shall be exempt from taxation and ensuring all property tax records of the county and tax statements relating to the servient property shall show the existence of such easement and that it is exempt from the tax; and any notice of sale and tax deed relating to the servient property shall show that such easement exists and is excepted from the sale of the servient property.

United States President Harry S. Truman combined two existing agencies to create the Bureau of Land Management (BLM) in 1946. The BLM utilizes a legal description/land description as the method of locating or describing land in relation to the public land Cadastral survey system, which was established by law in 1785, under the Articles of Confederation.

West Richland, Washington was officially incorporated on June 13, 1955. In August 1955, Benton County Engineer, Willard Goss, certified that the Plat of Willamette Heights is based on an actual

Survey and the subdivision of Section 6, Township 9 North, Range 25 East and lot corner stakes have been set according to the Plat.

A Dedication of the BLM Plat of Willamette Heights was signed by Robert B. Officer, representative of the United States, through the Department of the Interior, Bureau of Land Management, who declared the United States, owner of the land

shown in the Plat of Willamette Heights is in agreement with the platting of said tract into lots. The BLM Plat Map of Section 6 Willamette Heights was filed with the Benton County Auditor in 1956.

The Bureau of Land Management offered patent lots at Small Tract Public Auctions. In 1963, the United States of America, Grantor of Land Patent Number 1158574, historically deeded Lot 123, Section 6, Willamette Heights, to Charles A. Mansius, Grantee. The Federal Land Patent Number 1158574, platted from a 1956 Dedication of the BLM Plat of Willamette Heights, was subject to a right-of-way not exceeding 33 feet in width, for roadway and public utilities purposes, to be located along the boundaries of said land.

The State of Washington RCW 64.04.175: Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

January 1981, the City of West Richland Annexation Ordinance 412 annexed and provided zone classifications for the area known as Willamette/Horn into the City of West Richland.

The Small Tract Act of 1938 did not establish or reserve rights-of-way in leases or patents, but created a common law dedication that disappeared if the rights-of-way were not accepted by actual use before classification was terminated. The classification was terminated via a Notice in the Federal Register on November 18, 1981.

- Question: What is the status of the 33-foot easements mentioned in the land patents for Bureau of Land Management parcels?
- Answer: From the BLM Oregon/Washington State Office on the topic of the 33-foot easement common to the Small Tract Act of 1938 patents:

“BLM reviewed this question in detail in the early 1990's, and issued guidance as to **whether or not a public easement exists on patented land**. That guidance states that the Small Tract Act of 1938 did not establish or reserve rights-of-way in leases or patents, but **created a common law dedication** that disappeared if the rights-of-way were not accepted by actual use before classification was terminated.

The classification was terminated via a Notice in the Federal Register on November 18, 1981. Upon termination of the classification order the United States released all interest in the lands to the patentee, subject to any right-of-way for road or public utilities that may have been established prior to termination. If no such right-of-way was established prior to termination, the reservation language became null and void, and no right-of-way exists.,

If a right-of-way was established through actual use prior to November 18, 1981, the authority to vacate such right-of-way rests with local and county officials.

With that, it looks like the only remaining question is whether or not a right-of-way was established by actual use”

In 1993, the West Richland City Council adopted a local roadway plan for Section 6 which has been amended in 1999, 2006, 2014, 2018 and again in 2018.

September 1996 William Gilbert, West Richland Public Works Director, mailed a letter to W.F Brown (Lots 96 and 97) congratulating Brown and the four neighbors (Lots 123, 91, 92, and 95) on the completion of a fine project hiring A & B Asphalt to pave South 48th Avenue (paved from Bombing Range Road along east boundary of Lot 123 and Lot 96 adjacent to the southeast corner of Lot 91). 48th Avenue street sign is BLUE, identifying a private Roadway. Our neighborhood has been maintaining the asphalt for snow, weeds and crack sealing for years. (Per an email from Bronson Brown August 32, 2018 allowing the property owners to seal road cracks at their expenses with no permit required) This section of BLM right-of-way was established as 'actual use' road access to Lots 123, 96/97, and 92 prior to November 18, 1981. Per November 18, 1981 Notice of Termination; this asphalt section of 48th Ave belongs to the City of West Richland but is being maintained by private citizens.

There is a city sign "DEAD END NOT A THROUGH STREET" on South 48th Avenue where the Lot 123 AF#1998-009645 quit claim ends and lot 96 begins. The east boundary of Lot 91 and 92 is all vegetation with no road 'actual use'. Lot 63 maintains the sand/gravel 'actual use' road access to Collins.

There are no landlocked lots for 48th Avenue. WRMC 17.24.018, WRMC 17.54.050 and Washington State WAC 365.191.300 (g)(4) indicate full urban services is unlikely to occur due to existing development patterns and topographical restrains. Residents have city water but use septic system.

Due to Bombing Range being such a steep road, making 48th Ave a through street from Bombing Range Road to Collins may create dangerous traffic 'shortcut' and noise impacting the public peace, morals and welfare (West Richland Chapter 9.38).

On April 10, 1998, Dea Strand, Lot 123, Section 6 widow and Grantor, signed a quit claim deed to the City of West Richland, Grantee, in the matter of Bombing Range Phase II road purposes which was filed with the Benton County Auditor AF#1998-009645. (See quit claim description below)

CONCLUSION FOR LOT 123 SECTION 6 OF WILLAMETTE HEIGHTS

The Benton County Assessor's legal description **SECTION 6 OF WILLAMETTE HEIGHTS Lot 123** (R/W ESMT 8-5-74 less portion to City of West Richland for road. 4/10/98 AF#1998-009645) on all property tax records of the county and tax statements relating to the servient property is proof the existence of n 'actual use' easement(s)/rights-of-way, for roadway only.

The Washington ACE# 13-14294, 90 107995 Deed of Trust (Benton Franklin Title Co.) legal description **LOT 123 SECTION 6 WILLAMETTE HEIGHTS**, according to the plat thereof recorded in Volume 5 of Plats, Page(s) 52, records of Benton County, Washington, Except that portion conveyed to the City of West Richland for road purposes pursuant to a Quit Claim Deed recorded on April 10, 1998 under Auditor's File No. 1998-009645. In addition with in the Deed under Schedule B; Exceptions in part:

1) Easement as contained in Patent recorded May 13, 1987 under Auditor's File No. 87-76855, records of Benton County for right of way not exceeding 33 feet in width, for roadway and public utility purposes to

be located along the North boundary of said land.

2) EASEMENT, including the terms, covenants and provisions thereof; recorded August 5, 1974, Recording No. 668398 In favor of General Telephone Company of the Northwest, Inc., a corporation (an additional 5 foot easement along the East property line; creating a 35 foot Roadway/Easement along the East line of Lot 123)

Also on April 10, 1998 Benton County Auditor Quit Claim Deed for Road Easement to City of West Richland

(Previous property owner lot 123) Dea A. Strand, widow (Grantor) quit claim deed to City of West Richland, Grantee, in the matter of Bombing Range Phase II. Legal description acquired:

That portion of Lot 123, Willamette Heights, according to the plat thereof recorded in Volume 5 of Plats, page 52, records of Benton County, Washington, described as follows:

Beginning at the Southeast corner of said Lot 123; Thence North 00 degrees 17'15" West, along the East line of said Lot 123, for 329.92 feet to the Northeast corner of said Lot 123; Thence South 88 degrees 44'35" West, along the North line of said Lot 123, for 30.00 feet; Thence South 00 degrees 17'15" East for 327.17 feet to intersect a 2740.16 foot radius curve concave to the Southeast (the radius point bears South 61 degrees 06'37" East); Thence, Southwesterly along the arc of said curve to the left, through a central angle of 00 degrees 04'00", for an arc distance of 3.19 feet to the South line of said Lot 123; Thence leaving said curve, North 88 degrees 43'52" East, along the South line of said Lot 123, for 31.56 feet to the true point of beginning.

Containing 9900 square feet, more or less.

AND

That portion of Lot 123, Willamette Heights, according to the plat thereof recorded in Volume 5 of Plats, page 52, records of Benton county, Washington, described as follows: Commencing at the Southeast corner of said Lot 123; Thence South 88 degrees 43'52" West, along the South line of said Lot 123; for 31.56 feet to the true point of beginning; Thence South 88 degrees 43'52" West, along the South line of said Lot 123; for 11.55 feet to intersect a 2750.17 foot radius curve concave to the Southeast (the radius point bears South 61 degrees 17'52" East); Thence Northeasterly along the arc of said curve to the right; through a central angle of 00 degrees 33'29", for an arc distance of 26.79 feet; Thence, leaving said curve, South 00 degrees 17'15" East for 20.38 feet to intersect a 2740.16 foot radius curve concave to the Southeast (the radius point bears South 61 degrees 06'37" East); Thence Southwesterly along the arc of said curve to the left, through a central angle of 00 degrees 04'00", for arc distance of 3.19 feet to the South line of said Lot 123 and the true point of beginning.

Containing 1150 square feet, more or less.

Benton County Auditor AF#1998-009645

(Above 9,900 Sq/Ft plus 1,150 Sq/Ft equals 11,050 Sq/Ft) (43,560 Sq/Ft per Acre times Original Patented land 2.5 equals 108,900 Sq/Ft minus 11,050 Sq/Ft equals 97,850 Sq/Ft divided by 43,560 Sq/t equals 2.246 Acres) (Taxed Lot 123 is 2.27 Acres for years)

RCW 84.36.210 reads "easements rights shall be exempt from taxation".

Subsequently, the property owner has paid property tax on 2.27 Acres, with no TAX relief for the North 33 foot and additional East 5 foot utility easement(s).

Based upon the Historical Reference and Summary for Lot 123 Section 6 of Willamette Heights, the conclusion appears to be:

1. **Tax Auditor's records need to reflect the additional (Nontaxable) easements being used on Lot 123 (i.e. North 33 feet and the additional GTE 5 foot easement along the East property line). (33 feet times approx. 319.81 feet equals 10,553.73 Sq/Ft) (5 feet times approx. 330.05 feet equals 1,650.25 Sq/Ft)(10,554.73 plus 1,650.25 equals 12,203.98 Sq/Ft divided by 43560 Sq/Ft equals 0.280 Acres)(Calculated above 2.246 Acres minus 0.280 Acres equals a total of 1.966 Acres more or less (as described above) of Taxable property for Lot 123)**
2. **Property owner should be reimbursed for tax overage through the years per the additional easements calculated above. (2.27 present tax base minus calculated 2.246 Acres equals 0.024 Acres plus 0.280 equals a total of 0.304 Acres Tax Refund per year)**
3. **Lot 123 Rejects acceptance of our South 33 foot property line for a Fire Apparatus Access Road (Lot 128 due South has NO 33 foot easement along its North property line; it takes 66 foot width to make a Road), or our West 33 foot by 70 foot Fire Apparatus Access turnaround Road and our West 10 foot utility easement. We requested that the city amend the Section 6 Lot 123 Roadway Plan. (All of which we have been paying Tax's on for years)**

Please respond to this email with the City Of West Richland file number.

Thank you. City Council, for your support of the general public health, safety and welfare r the Federal land patent property owners of Section 6 located in the city limits of Township 9 North, Range 28 East, Willamette Meridian, West Richland, Washington, County of Benton, United States of America.

Regards
DeWayne & Jane Juhnke
721 S. 48th Ave.
West Richland, WA 99353

This is an external email and did not originate from the City of West Richland's email system.

ACCEPTANCE OF OFFER
OF DEDICATION
25' UTILITY ESM'T

ACCEPTANCE OF
OFFER OF
DEDICATION
10' UTILITY ESM'T

123

ACCEPTANCE OF
OFFER OF DEDICATION
33'X70' ACCESS &
UTILITY ESM'T

ACCEPTANCE OF
OFFER OF DEDICATION
33' ACCESS & UTILITY
ESM'T

30' ROAD ROW DEDICATED
S 48TH AVE

FIRE APPARATUS ACCESS ROAD



ACCEPTANCE OF OFFER OF DEDICATION AS FOLLOWS:

- 33-FOOT ACCESS AND UTILITY EASEMENT ALONG THE SOUTH BOUNDARY
- WEST 10-FEET OF THE 33' UTILITY EASEMENT ALONG THE WESTERN BOUNDARY TOGETHER WITH THE SOUTH 70' OF THE 33' ACCESS EASEMENT ALONG THE WESTERN BOUNDARY
- NORTH 25-FEET OF THE 33' UTILITY EASEMENT ALONG THE NORTHERN BOUNDARY



LOT 123 OF SECTION 6 OF WILLAMETTE HEIGHTS

DESIGN: JNP

CHECK: RCS

SCALE: 1" = 60'

DGW: JNP

SHEET NO. 123 OF 237

DATE: October 8, 2019

Re: South 48th Ave. - Private road request:

From: Bronson Brown (brnson@bellbrownrio.com)
To: dgjuhnke@yahoo.com; roscoe@westrichland.org; alambert@westrichland.org
Date: Friday, August 31, 2018, 04:03 PM PDT

Mr. Juhnke,

Go ahead and move forward with your crack sealing project. I have reviewed this matter with City staff and we have determined that you do not need a permit to perform this maintenance on this road.

Good luck with your project,

Bronson Brown,
City Attorney for West Richland

[Get Outlook for Android](#)

From: Aaron Lambert <alambert@westrichland.org>
Sent: Friday, August 31, 2018 3:59:03 PM
To: DeWayne Juhnke; Roscoe Slade
Cc: Bronson Brown
Subject: Re: South 48th Ave. - Private road request:

Hi DeWayne,

I have to defer to the City Attorney on this one. Bronson, can you respond to Mr. Juhnke's question?

Aaron

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----
From: DeWayne Juhnke <dgjuhnke@yahoo.com>

Date: 8/31/18 3:01 PM (GMT-08:00)
To: Aaron Lambert <alambert@westrichland.org>, Roscoe Slade <roscoe@westrichland.org>
Cc: 'Bronson Brown' <Bronson@bellbrowninfo.com>, dgjuhnke@yahoo.com
Subject: RE: South 48th Ave. - Private road request:

Aaron,
I still have not received a response from the City of West Richland; dealing with the Private Road Crack Sealing. This area will be moving into cooler weather in the near future and we're planning on crack sealing in a few weeks.

Please inform us that South 48th Avenue is still a Private Road (as identified in the attached 1996 letter); this is so we can move forward.

Thank you again for your time and trouble.
Regards
DeWayne Juhnke

From: Aaron Lambert [mailto:alambert@westrichland.org]
Sent: Monday, July 23, 2018 2:32 PM
To: dgjuhnke@yahoo.com; Roscoe Slade
Cc: Bronson Brown
Subject: FW: South 48th Ave. - Private road request:

Roscoe,

Mr. Juhnke and I were talking last week about a zoning issue and he mentioned that he would like to crack seal the portion of S. 48th Ave. that was privately constructed. Recalling the question about "No Parking" signs I know you had explored that with the City Attorney. Could you answer his question as to the residents sealing that roadway?

Thanks – Aaron

Aaron Lambert
Community Development Director
City of West Richland, WA
O: 509.967.7113

From: DeWayne Juhnke [mailto:dgjuhnke@yahoo.com]
Sent: Friday, July 20, 2018 7:38 AM
To: Aaron Lambert <alambert@westrichland.org>
Subject: Re: South 48th Ave. - Private road request:

Aaron,

Good morning; Per our conversation yesterday about the classification of South 48th Ave. I feel that since the land owners payed to have the road upgraded and paved, that it should remain a Private street. See attached letter from the City of West Richland. We need to get this issue resolved so we the property owners can perform maintenance on the roadway. Now I have no problem filling the City of West Richlands saw cuts to prevent water/ice damage at no cost to

11/15/2019

Yahoo Mail - Re: South 48th Ave. - Private road request:

the City. The crack filler that would be used is available from Home Depot.
Please see if we can get a resolution on this matter shortly.

Thank you for your time and trouble.

Regards

DeWayne Juhnke

509-967-2875



COLLINS RD

COLLINS RD

Lot 59

Lot 60

Lot 64

Lot 63

EVE

Lot 91

Lot 92

S 50TH AVE

S 48TH AVE

Lot 96

Lot 95

BOMBING RANGE RD

Lot 122

Lot 123

Lot 124

ACCEPTANCE OF OFFER
OF DEDICATION
25' UTILITY ESM'T

ACCEPTANCE OF
OFFER OF
DEDICATION
10' UTILITY ESM'T

123

ACCEPTANCE OF
OFFER OF DEDICATION
33'X70' ACCESS &
UTILITY ESM'T

ACCEPTANCE OF
OFFER OF DEDICATION
33' ACCESS & UTILITY
ESM'T

30' ROAD ROW DEDICATED

S 48TH AVE

FIRE APPARATUS ACCESS ROAD



ACCEPTANCE OF OFFER OF DEDICATION AS FOLLOWS:

- 33-FOOT ACCESS AND UTILITY EASEMENT ALONG THE SOUTH BOUNDARY
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- NORTH 25-FEET OF THE 33' UTILITY EASEMENT ALONG THE NORTHERN BOUNDARY



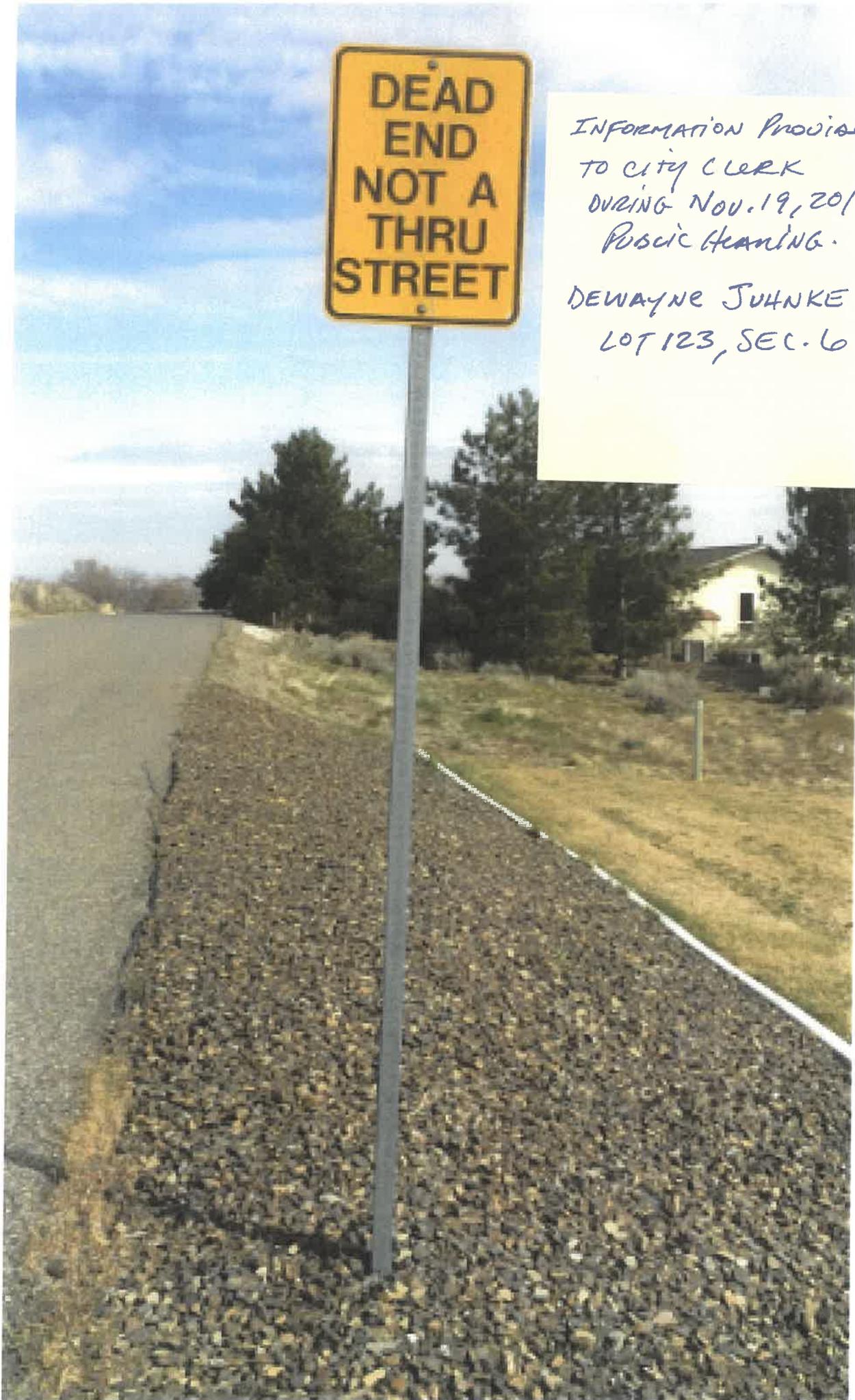
LOT 123 OF SECTION 6 OF WILLAMETTE HEIGHTS

DESIGN: JNP	CHECK: RCS	SCALE: 1" = 60'
DGW: JNP	SHEET NO. 123 OF 237	DATE: October 8, 2019

DEAD
END
NOT A
THRU
STREET

INFORMATION PROVIDED
TO CITY CLERK
DURING NOV. 19, 2019
PUBLIC HEARING.

DEWAYNE JUHNKE
LOT 123, SEC. 6



West Richland Section 6, Willamette Heights Lot Map with Owners (denotes home or land)

Collins Road – Asphalt with sidewalks

55	56	57	50 th Ave	58	59	48 th Ave Gravel Dead End to Lot 91	60	61
BLM Land vacant	BLM Land	BLM Land vacant		BLM Land vacant	BLM Land vacant		Humphreys Home 1965	Humphreys Land vacant
68	67	66	CID Pump	65	64	48 th Ave Gravel Dead End to Lot 91	63	62
Smart Home	Zoma Home	BLM Land vacant		BLM Land vacant	BLM Land vacant		Fredrickson Home 1990	Hamilton Home 1960 Dog Kennel 2017
87	88	89	50 th Ave	90	91	Carranza Vacant Land	92	93
Hughes Home	Willms Home	BLM Land vacant			Cable Land vacant		Carranza Home 1984	Weber Home 1975
100	99	98	50 th Ave	97	96	48 th Ave Asphalt Dead End at Lot 91	95	94
Young Home	Hamack Home	Mccracken Home			Jackson Home 1974		Jackson Well Pump vacant	Becker Home 1993
Grant Road Gravel				122	123	48 th Ave Asphalt Dead End at Lot 91	West Richland City Park – grass/trees	
				Panisko Land vacant	Juhnke Home 1992		48 th Ave to Bombing Range	

Bombing Range Road – Asphalt with sidewalks

HISTORICAL REFERENCE INDEX

1. 1853 Oregon/Washington Territory
2. 1889 Washington State Admitted to Union
3. March 8, 1905 State of Washington Established Benton County
4. 1946 Bureau of Land Management
5. The Small Tracts Act (STA) OF 1938
6. 1948 Heminger City/Enterprise, Washington
7. March 1954 Enterprise changed name to West Richland, Washington
8. June 13, 1955 West Richland Incorporated
9. August 1955 Heminger Acres Addition Annexation
10. March 20, 1956 Bureau of Land Management Plat of Section 6 Willamette Heights
11. November 26, 1963 Benton County Assessor Historical Deed and Sales History
12. January 24, 1973 Benton County Assessor Historical Deed and Sales History
13. October 10, 1975 Benton County Assessor Historical Deed and Sales History
14. Federal Land Policy and Management Act of 1976
15. April 16, 1980 Benton County Assessor Historical Deed and Sales History
16. January 9, 1981 City of West Richland Annexation Ordinance No. 412
17. November 18, 1981 Notice in Federal Register
18. State of Washington RCW 64.04.175 Easements Established By Dedication – Extinguishing or Altering
19. Washington State RCW 84.36.210 Public Right-Of-Way Easements
20. 1984 Single Family Residential Home Built
21. 1993 West Richland Adopted First Roadway Plan
22. September 23, 1996 City of West Richland Letter to W. F. Brown, 703 S 48th Ave (Sec 6, Lot 97)
23. 1998 City of West Richland Ordinance No 11-98 Zone Classification & Reclassifying Property
24. January 10, 2005 Benton County Assessor Historical Deed and Sales History
25. April 13, 2011 Benton County Assessor Historical Deed and Sales History
26. April 14, 2011 Benton County Assessor Historical Deed and Sales History
27. June 24, 2013 State of Washington FHA DEED of TRUST
28. June 25, 2013 Benton County Assessor Historical Deed and Sales History
29. February 6, 2014 Benton County Assessor Historical Deed and Sales History
30. July 31, 2019 City of West Richland Analysis of BLM Historical Offers of Dedication
31. October 8, 2019 City of West Richland Mailed Letter for Public Open House Meeting on Historical Offers of Dedication Affecting Willamette Heights
32. October 25, 2019 City of West Richland Acceptance of Offer of Dedication on Website
33. City of West Richland Resolution No. 38-19 Setting Public Hearing Date For Offers of Dedication
34. November 8, 2019 City of West Richland Mailed Letter of Invitation To Public for Historic Offers of Dedication
35. November 19, 2019 City of West Richland Public Hearing on Historical Offers of Dedication
36. West Richland Municipal Code (WRMC) 17.24.010 Purpose
37. West Richland Municipal Code (RMC) 17.54.050 Area and Dimensional Regulations
38. Washington Administrative Code (WAC) 365.196-300 (g)(4) Development in Hazardous Areas
39. Benton County Office of the Assessor

HISTORICAL REFERENCE FOR LOT 91 SECTION 6 OF WILLAMETTE HEIGHTS**1. 1853 Oregon/Washington Territory**

The area now known as West Richland was part of the Oregon Territory in 1848 and became part of the Washington Territory in 1853.

2. 1889 Washington State Admitted to Union

Washington, included in the Oregon Territory, title to which was established 1846 and admitted in the Union 1889 (25 Stat. 676; 26 Stat. 1952), retains records in the Oregon State Office of the Bureau of Land Management (BLM) in Portland., Oregon.

3. March 8, 1905 State of Washington Established Benton County

Benton County, formed on March 8, 1905, was named after Nelson Hart Benton, a Missouri Senator, and author of Manifest Destiny.

4. 1946 Bureau of Land Management

The Bureau of Land Management is an agency within the Department of the Interior responsible for the administration of public lands. President Harry S. Truman created the BLM in 1946 by combining two existing agencies: the General Land Office and the Grazing Service. The BLM roots go back to the Land Ordinance of 1785 and the Northwest Ordinance of 1787.

In the United States, Cadastral (a comprehensive land recording of real property's metes-and-bounds) survey within the Bureau of Land Management maintains records of all public lands. Such surveys often require detailed investigation of the history land use, legal accounts and other documents. In general usage, the status of any particular parcel of land is obtained from an accumulation of information relating to the parcel. Examples of status information are: the legal description; whether surveyed or un-surveyed; rights or privileges attached, if any; whether classified as mineral or agricultural lands; applicable withdrawals, orders, or special laws; and other pertinent information that may influence the operation of the laws related to the use or disposal of the parcel. Land status does influence which of various boundary laws and rules are controlling and the court of competent jurisdiction for resolution of disputes.

A legal description/land description is the method of locating or describing land in relation to the public land survey system, which was established by law in 1785, under the Articles of Confederation. Land is broken down into areas called townships. Townships are for the most part 36 square miles or 6 miles square. Sections in each township are numbered consecutively beginning with number 1 in the northeast corner of the township and counting right to left then left to right and so on weaving back and forth through the sections of the township and ending with number 36 in the southeast corner. In Oregon and Washington the rectangular survey system of township and range is reference to the north-south Willamette Meridian and the east-west Willamette Base Line. The lines cross on the Willamette Stone in the west hills of Portland, Oregon. Townships (normally 6 miles by 6 miles) are numbered starting with Township 1 North (of the base line) to the Canadian border and Township 1 South to the California border. The Ranges are numbered west from the meridian to the Pacific Ocean and east to the Idaho border. Normal townships are divided into 36 Sections and further into Lots and Aliquot Parts. The complete legal description for a 160 acre parcel in eastern Oregon would read: the SE ¼ of Section 14 in Township 14 South, Range 34 East, Willamette Meridian.

When you write a legal description, you can start with the Township and Range or you can start with the section description. Whichever way you start, when you are writing the description of the section, always start with the smallest piece of land first and graduating to the largest piece.

Each township with a Master Title Plat is further documented by a tabular summary of all actions taken on Federal lands over time. The Historical Indices pages contain more information such as date, serial number and authority for the action than is presented on the Master Title Plats. The earliest entries are typically the original grants to the State at the time of Statehood and continue with the posting of homestead patents, withdrawals for national forests, land exchanges, sales and leases.

In 1789 Congress established the Treasury Department and gave it the responsibility of overseeing the sale of public lands and on April 25, 1812 the General Land Office (GLO) was created within the Treasury Department. Headed by a commissioner, the new bureau was responsible for the survey and sale of public lands. Field offices of the GLO were established, served the needs of the local settlers and were closed as patterns of migration and settlement dictated.

The General Land Office was transferred to the new Department of the Interior in 1849 and continued to establish field offices in the western territories and states. Oregon and Washington Land Offices began with the Oregon City Land Office (1855-1905) and were established in many towns including Olympia, Seattle, Walla Walla, Yakima, and Spokane in Washington and Burns, Lakeview, Roseburg, The Dalles, and Vale in Oregon. The local land offices in Oregon and Washington were closed by 1948-1949 and all of the survey and homestead records were consolidated in the Portland office.

These historic land status records were maintained in Plat Books and Tract Books organized by township until the "new" Master Title Plats and Historical Indices were compiled in the 1960's. The Plat Books and Tract Books often contain a more detailed summary of land dispositions for the time period. (Blm.gov/or/landrecords/survey/ySrvy1.php)

5. The Small Tracts Act (STA) OF 1938

June 1, 1938 Congress passed a law, called the Small Tract Act (STA) of 1938, by which it is possible for any citizen to obtain certain lands from the Federal Government for residence, recreation, or business purposes. These tracts may not usually be larger than 5 acres. A 5-acre tract would be one which is 660 feet long and 330 feet wide, or its equivalent. The property was to be improved with a building. Starting July 1955, improvement was required to be minimum of 400 sq. feet of space. 4,000 previously classified Small Tracts were offered at public auction at fair market value, circa 1958, by the Los Angeles Office of BLM.

6. 1948 Heminger City/Enterprise, Washington

In 1948, Carl and Vera Heminger purchased eighty acres and made plans for a model city. He called it Heminger City but by vote of residents in February 1949 the name Enterprise was selected. The town stretched about 3 miles along Van Giesen and extended back about a mile. Carl Heminger led a group who objected and founded a second Heminger City a mile west.

7. March 1954 Enterprise changed name to West Richland, Washington

Enterprise residents felt they could get more recognition with the name West Richland. The name West Richland was approved by a vote of 218 to 80 in March 1954.

8. June 13, 1955 West Richland Incorporated

West Richland, Washington was officially incorporated on June 13, 1955. The first Mayor of West Richland was James O. Zwicker. The first council elected under incorporation was Wesley Meyers, Bob Marlow, O.J. Hove, Opal Morton, and Melvin Schultz. Appointed employees were Jennie Faust, Clerk;

Walt Leslie, Marshal; James Lawless, Attorney; and T. A. Morton, Police Justice. The Chamber of Commerce, the city's first civic club, was founded in 1955. It had 157 members.

9. August 1955 Heminger Acres Addition Annexation

In August 1955 the limits of the town were extended almost a mile to the west when the Heminger Acres addition was annexed to the town thus combining the two towns of Enterprise and Heminger City.

10. March 20, 1956 Bureau of Land Management Plat of Section 6 Willamette Heights

DEDICATION

I, ROBERT B. OFFICER, REPRESENTATIVE OF THE UNITED STATES, THROUGH THE DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, DO DECLARE THAT THE UNITED STATES, OWNER OF THE LAND SHOWN IN THIS PLAT, IS IN AGREEMENT WITH THE PLATTING OF SAID TRACT INTO LOTS AND ACCESS ROADS AS SHOWN HEREON, AND FURTHER DECLARE THAT SAID ACCESS ROADS ARE HEREBY DEDICATED TO THE USE OF THE PUBLIC FOREVER AND THAT SAID SUBDIVISION SHALL HEREAFTER BE KNOWN AND DESIGNATED BY THE NAME "WILLAMETTE HEIGHTS."

IT SHALL BE THE RESPONSIBILITY OF LANDOWNERS SUBSEQUENT TO THE UNITED STATES TO IMPROVE THE DEDICATED ACCESS ROADS TO A STANDARD ACCEPTABLE TO BENTON COUNTY PRIOR TO ACCEPTANCE INTO BENTON COUNTY ROAD SYSTEM. A STRIP 30' WIDE ON EACH SIDE OF EACH LOT SHALL BE AVAILABLE TO PUBLIC UTILITIES.

Approvals August 22, 1955

County Engineer

County Assessor

County Commissioners

Certification of County Treasurer

Certification of Engineer

Benton County Engineer, Willard Goss, certified that the Plat of Willamette Heights is based on an actual survey and the subdivision of Section 6, Township 9 North, Range 25 East, that the distances and courses and angles are shown thereon correctly and that monuments have been set and lot corner stakes as shown on the plat.

Public Utility Approval

Recorded

Filed for record this 20th day of March, 1956 at the request of Willamette Heights Association at 4:15 PM and recorded in Volume 5 of Plats at page 52. Benton County Auditor R. E. Wise by Diana Landin, Deputy Auditor *File No. 354587*

DEFINITION

Something is *subsequent* if it follows something else in time, order or place.

11. November 26, 1963 Benton County Assessor Historical Deed and Sales History

United States of America, Grantor of Land Patent, to Charles A. Mansius, Grantee

The United States of America,

To all whom these presents shall come, Greetings:

WHEREAS, a Certificate of the Land Office at Spokane, Washington, has been issued showing that full payment (\$190.00) has been made by the claimant Charles A. Mansius pursuant to the provisions of the Act of Congress approved June 1, 1938 (52 Stat. 609), entitled "An Act to provide for the purchase of public lands for home and other sites," and the acts supplemental thereto, for the following described land:

Willamette Meridian, Washington
T. 9 N., R 28 E.,
Sec. 6 Lot 91

The area described contains 2.50 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management.

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States all oil, gas and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of June 1, 1938. This patent is subject to a right-of-way not exceeding 33 feet in width, for roadway and public utilities purposes, to be located along the north and east boundaries of said land.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed. GIVEN under my hand, in the District of Columbia, the THIRTIETH day of OCTOBER in the year of our Lord one thousand nine hundred and SIXTY-THREE and of the Independence of the United States the one hundred and EIGHTY-EIGHTH.

For the Director, Bureau of Land Management By Elizabeth Hucks, Chief Patents Section
Patent Number 1233957

November 26, 1963 9:31 AM Vernon Miller, Auditor Deputy, Recorded in Volume 4 Patents Page 124

12. January 24, 1973 Benton County Assessor Historical Deed and Sales History

Historical Patent Deed Charles A. Mansius, Grantor, to Stephen E. Seeman, Grantee

13. October 10, 1975 Benton County Assessor Historical Deed and Sales History

Historical Deed Stephen E. Seeman, Grantor, to Clifford Dale Flowers and Regina Flowers, Grantees

14. Federal Land Policy and Management Act of 1976

Perhaps in recognition of the importance of the Act, particularly to the western states and because of its complex origins, the Senate Committee on Energy and Natural Resources in 1978 published a committee print, Legislative History of the Federal Land Policy and Management Act of 1976.³ Prefacing the document is a memorandum in which Senator Henry M. Jackson, Chairman, summarizes for fellow committee members the background and need for the Act. He concludes with this statement:

The Federal Land Policy and Management Act of 1976 represents a landmark achievement in the management of the public lands of the United States. For the first time in the long history of the public

lands, one law provides comprehensive authority and guidelines for the administration and protection of the Federal lands and their resources under the jurisdiction of the Bureau of Land Management. This law enunciates a Federal policy of retention of these lands for multiple use management and repeals many obsolete public land laws which heretofore hindered effective land use planning for and management of public lands. The policies contained in the Federal Land Policy and Management Act will shape the future development and conservation of a valuable national asset, our public lands. (blm.gov/sites/glm.gov/files/AboutUs_LawsandRegs_FLPMA.pdf)

15. April 16, 1980 Benton County Assessor Historical Deed and Sales History

Historical Deed Clifford Dale Flowers and Regina Flowers, Grantors, to Ralph M. and Marjorie A. Cable, Grantees. Lot 91 was natural uninhabited land with no buildings.

16. January 9, 1981 City of West Richland Annexation Ordinance No. 412

An ordinance of the City of West Richland annexing a certain unincorporated area, contiguous to the City of West Richland consisting of that area commonly known as the Willamette/Horn Annexation, in Benton County, State of Washington and providing zoning therefore.

WHEREAS, notice of a desire for annexation was hereto given by property owners within said annexation area including more than ten percent (10%) in value of the assessed valuation of said real property, and pursuant to RCW. 35A.14.120, the City Council has determined that it would require the assumption of indebtedness of the City of West Richland contracted prior to or existing at the time of annexation; and

WHEREAS, a good and sufficient petition has been filed for the annexation of this territory which complies with the requirements of law; and

WHEREAS, the annexation was previously reviewed and public hearings held by the Planning Commission and is in accord with their views; and

WHEREAS, an environmental Impact Statement has been circulated and finalized as provided by law, and

WHEREAS, notice of the time and place for hearing said petition was given by posting and publication as required by law; and

WHEREAS, said petition has been entertained by the City Council and public hearings were held pursuant to said notice on the 17th day of November, 1980 and the 5th day of January, 1981 at which time all objections and protests which were made were heard and considered, now, therefore

THE CITY COUNCIL OF THE CITY OF WEST RICHLAND do ordain as follows:

Section No. 1

The unincorporated area contiguous to the City of West Richland, situated in the County of Benton, State of Washington, more particularly described as follows: (refer to page 2 and 3 of Ordinance 412).

Section No. 2

PR - Public Reserve

Within Section 6, Township 9 North, Range 28 East, W.M., Plat of Willamette Heights lots 55, 56, 57, 58, 59, 64, 65, 66, 89, 206, and 207. (page 16 of 32)

RS – 40 Suburban Residential

Within Section 6, Township 9 North, Range 28 East. W. M., Plat of Willamette Heights lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and 45, 60, 61, 62, and 63. (page 17 of 32)

RL - 12.5 Low Density Residential

Within Section 6, Township 9 North, Range 28 East, W. M., Plat of Willamette Heights, Lots 46, 47, 48, 49, 50, 51, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 90, 97, 98,

99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205 and 208. (page 29 of 32)

RL – 20 Low Density Residential

Within Section 6, Township 9 North, Range 28 East, W. M., Plat of Willamette Heights, lots 52, 53, 54, 55, 56, 57, 58, 59, 64, 65 and 66. (page 30 of 32)

RL – 15 Low Density Residential

Within Section 6, Township 9 North, Range 28 East, W. M., Plat of Willamette Heights, lots 92, 93, 94, 95, 96, 122, 123, 124, 125, 127, 128, 129, 152, 153, 154, 155, 162 and 163. (page 31 of 32)

This ordinance shall take effect and be in force five (5) days after the date of its passage and posting in the manner provided by law.

Passed by the City Council of the City of West Richland, Washington, this 5 day of January, 1981

F. G. Burton, Mayor (signed signature)

ATTEST: Jo Felch, City Clerk (signed signature)

APPROVED AS TO FORM: Robert G. Swisher, City Attorney (NO signed signature)

Volume 404 Page 22 recorded January 9, 1981

Using the Ordinance 412 information above the 1956 BLM PLAT MAP LOTS ZONED IN THE CITY ARE:

5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 127, 128, 129, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, and 208.

The 1956 BLM PLAT MAP LOTS ZONED IN THE CITY in both PR-Public Reserve and RL-20 – Low Density Residential are: 55, 56, 57, 58, 59, 64, 65, 66

The 1956 BLM PLAT MAP LOTS NOT ZONED IN THE CITY ARE:

1, 2, 3, 4, 27, 28, 29, 32, 91, 126, 130, 156, 157, 158, 159, 160, 161, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, and 237.

The City of West Richland contains two areas that the Federal Government’s General Land Office (which later became part of the Bureau of Land Management (BLM)) divided and surveyed under the Small Tract Act (STA) of June 1, 1938 (later repealed in 1976) (*FLPMA 1976*).

These areas are commonly referred to as “Willamette Heights Section 6” and “Willamette Heights Section 8” and consist primarily of 2.5 acre lots. All of Section 6 is within the city, and about half of Section 8 is within the city limits, with the remainder located in unincorporated Benton County.

Under the Small Tract Act, the federal government created parcels (primarily sized 2.5 acres) that were later granted to claimants by means of land patents. Most of the lots contain rights-of-way that extend along one or more of the boundaries that are typically 33 feet wide. These rights-of-way are federal patent reservations. By establishing patent reservations, the United States reserved rights for “use by any federal, state, county, or municipal government or instrument thereof or for use by any private or corporate entity; or individual, for roadway and utilities purposes in perpetuity.” The City’s planning department keeps records of the patent reservations on these properties. Under State law, the City

construes the patent reservations as common law offers of dedication. (SEPA Environmental Checklist July 2016 page 2 Of 8)

17. November 18, 1981 Notice in Federal Register

Small Tract Act of 1938 did not establish or reserve rights-of-way in leases or patents, but created a common law dedication that disappeared if the rights-of-way were not accepted by actual use before classification was terminated. The classification was terminated via a Notice in the Federal Register on November 18, 1981.

- Question: What is the status of the 33-foot easements mentioned in the land patents for Bureau of Land Management parcels?
- Answer: From the BLM Oregon/Washington State Office on the topic of the 33-foot easement common to the Small Tract Act of 1938 patents:

*“BLM reviewed this question in detail in the early 1990's, and issued guidance as to **whether or not a public easement exists on patented land**. That guidance states that the Small Tract Act of 1938 did not establish or reserve rights-of-way in leases or patents, but **created a common law dedication** that disappeared if the rights-of-way were not accepted by actual use before classification was terminated.*

The classification was terminated via a Notice in the Federal Register on November 18, 1981. Upon termination of the classification order, the United States released all interest in the lands to the patentee, subject to any right-of-way for road or public utilities that may have been established prior to termination. If no such right-of-way was established prior to termination, the reservation language became null and void, and no right-of-way exists.

If a right-of-way was established through actual use prior to November 18, 1981, the authority to vacate such right-of-way rests with local and county officials.

With that, it looks like the only remaining question is whether or not a right-of-way was established by actual use”

18. State of Washington RCW 64.04.175 Easements Established By Dedication – Extinguishing or Altering

Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement. (1991 c 132 1)

HISTORICAL REFERENCE FOR LOT 91 SECTION 6 OF WILLAMETTE HEIGHTS

19. Washington State RCW 84.36.210 Public Right-Of-Way Easements

Whenever the state, or any city, town, county or other municipal corporation has obtained a written easement for a right-of-way over and across any private property and the written instrument has been placed of record in the county auditor's office of the county in which the property is located, the easement rights shall be exempt from taxation and exempt from general tax foreclosure and sale for delinquent property taxes of the property over and across which the easement exists; and all property tax records of the county and tax statements relating to the servient property shall show the existence of such easement and that it is exempt from the tax; and any notice of sale and tax deed relating to the servient property shall show that such easement exists and is excepted from the sale of the servient property.

20. 1984 Single Family Residential Home Built

Ralph M. and Marjorie A. Cable purchased a vacant lot in 1980. Four years later and 3 years after the Notice of Termination in the Federal Register vacating unused right-of-ways, a single family residential home was built. The home had a septic system and potable city water.

21. 1993 West Richland Adopted First Roadway Plan

The West Richland City Council adopted a local roadway plan for Section 6 showing where local roadways would be constructed in the future. This action was important to ensure that each lot had a legal access to a future city street that would not be vacated by Council action. The plan was then amended in 1999, August 2006, April 2014, April 2018 and most recently July 17, 2018.

22. September 23, 1996 City of West Richland Letter to W. F. Brown, 703 S 48th Ave (Sec 6, Lot 97)

Dear Mr. Brown:

I am in receipt of you letter dated August 26, 1996 concerning the paving of South 48th Street. I apologize for the delay in my response. However, as I told you via the telephone, a permit is not required for the paving. I have noticed that A & B Asphalt recently paved South 48th Street. I would like to congratulate you and your neighbors on the completion of a fine project.

As your letter states, this roadway is a private roadway, therefore, all future maintenance will be the responsibility of all adjacent property owners.

Once again, congratulations on your accomplishments.

Sincerely,

William R. Gilbert

Public Works Director

WRG/sy

23. 1998 City of West Richland Ordinance No 11-98 Zone Classification & Reclassifying Property

Ordinance for the City of West Richland, Washington, relating to zone classification and reclassifying certain properties within the City in conformance with the Comprehensive Plan.

WHEREAS, pursuant to the mandates of the Growth Management Act, on the 21st of October, 1995, the City adopted a Comprehensive Plan for the City, which, among other things, provided for comprehensive land use planning for the City; and

WHEREAS, the adoption of the Comprehensive Plan has necessitated a review of land uses currently applied to most properties within the City, and the Planning Commission has undertaken a

systematic and comprehensive review of all land use applications within the City, said review being conducted in phases, with each phase associated with a particular geographic area of the City; and

WHEREAS, pursuant to said comprehensive review, as related to approximately 257 acres, hereinafter described, the Planning Commission held an open records hearing on October 30, 1997, and at said open records hearing, the Planning Commission heard and considered testimony and questions concerning the reasons and reviewed the City Staff Report, and after making specific Findings of Fact, recommended to the City Council certain reasons for the property as specifically set forth in the "Report of the Planning Commission Public Hearing" dated October 30, 1997; and

WHEREAS, the City Council has entertained the reclassification at a closed record hearing conducted on January 20, 1998, at which time the City Council reviewed the records and report of the Planning Commission and Staff analysis relating to the reasons and considered the reasons; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act and the Environmental Protection Code of the City;

NOW THEREFORE,

THE CITY COUNCIL FOR THE CITY OF WEST RICHLAND, WASHINGTON, do hereby ordain as follows:

Section 1. Findings and Conclusions. The City Council hereby adopts the following Findings of Fact for the subject rezone: The City Council adopts by reference the Findings of Fact made by the City Planning Commission as set forth in Paragraph 4 on pages 5 and 6 of the City of West Richland "Report of the Planning Commission Public Hearing" dated October 10, 1997, which is attached hereto and by this reference incorporated herein.

In addition, the City Council further adopts the following Findings relating to the subject rezone:

1. The proposed rezone preserves and promotes the goals of the community as a whole, and is in the public interest.

2. The proposed rezone is consistent with the City's Comprehensive Plan and the current land uses in the area.

3. the proposed rezone will have no significant impact on the environment or on public safety.

Based upon the Findings set forth above, it is the conclusion of the Council that:

1. The proposed rezone is consistent with the current uses of the property in the vicinity of each zone.

2. The changes in neighborhood or community needs or circumstances warrant the changes reflected in the rezone.

3. The community as a whole, as well as the individual property owners, will benefit from the rezone.

4. The rezone serves and promotes the goals of the City and is in the public interest, and is in conformance with the City's Comprehensive Plan and, therefore, bears a substantial relationship to public health, safety, morals and welfare.

Section 2. Change in Zones.

A. The use classification of the following described property is hereby changed to Commercial Use District (C-1) in accordance with the provisions of Chapter 17.48 of the West Richland Municipal Code.

Lot 1, Plat of Willamette Heights, Section 6, Township 9 North, Range 28 East, Willamette Meridian,

West Richland, Benton County, Washington.

B. The Use classification of the following described property is hereby changed to Suburban Residential Use District (RS-40) in accordance with the provisions of Chapter 17.24 of the West Richland Municipal Code.

Lots 27, 46, 49 through 59, 64 through 75, 77 through 124, 128 through 155, and 162 through 183, all lying West of Bombing Range Road, Plat of Willamette Heights, Section 6, Township 9 North, Range 28 East, Willamette Meridian, West Richland, Benton County, Washington.

C. The use classification of the following described property is hereby changed to Public Reserve (PR) in accordance with the provisions of Chapter 17.15 of the West Richland Municipal Code.

Lots 2, 28 and 29, Plat of Willamette Heights, Section 6, Township 9 North, Range 28 East, Willamette Meridian, West Richland, Benton County, Washington.

Section 3. This ordinance shall be in full force and effect five days following its passage and publication in the official newspaper of the City as required by law.

PASSED by the City Council for the city of West Richland, Washington, this 4th day of May, 1998.

Signed Jerry A. Peltier, Mayor

ATTEST:

Signed Howard J. Roberts, City Clerk/Treasurer

APPROVED AS TO FORM:

Signed Robert S. Swisher, City Attorney

Recorded 06/02/1998 3:47 PM Benton County 1998-015235

24. January 10, 2005 Benton County Assessor Historical Deed and Sales History

Personal Representative Deed Ralph M. and Marjorie A. Cable, Grantors, to Marjorie Anne Cable, Grantee

25. April 13, 2011 Benton County Assessor Historical Deed and Sales History

Quit Claim Deed Marjorie Anne Cable, Grantor, to Marjorie Anne Cable, Grantee

26. April 14, 2011 Benton County Assessor Historical Deed and Sales History

Quit Claim Deed Marjorie Anne Cable, Grantor, to Marjorie Anne Cable, Grantee

27. June 24, 2013 State of Washington FHA DEED of TRUST

Legal Description (abbreviated): Lot 91, Section 6, WILLAMETTE HEIGHTS

Legal Description: Lot 91, Section 6, WILLAMETTE HEIGHTS, according to the plat thereof recorded in Volume 5 of Plats, Page(s) 52, records of Benton County, Washington.

Tax Account Number: 1-698-102-0091-000

Which has the address of 605 S 48th Ave, West Richland, Washington 99353

State of Washington

County of Benton

On this day personally appeared before me Patricia Carranza, Matilde Carranza, to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 24th day of June 2013.

Dina M. McMahon

Notary Public in and for the State of Washington residing at Pasco

My commission expires 10/15/14

(#00) Commitment for Title Insurance

Stewart Title Company Schedule B, Part 1, SPECIAL EXCEPTIONS:

8. Ordinance No. 412 and the terms and conditions thereof:

Recorded January 9, 1981
Recording No. 833935

9. Ordinance No. 11-98 and the terms and conditions thereof:

Recorded June 2, 1998
Recording No. 1998-015235

28. June 25, 2013 Benton County Assessor Historical Deed and Sales History

Statutory Warranty Deed Marjorie Anne Cable, Grantor, to Patricia Carranza and Matilde Carranza, Grantees

Parcel Geography 106981020091000 Property ID 25278
Legal Description SECTION 6 OF WILLAMETTE HEIGHTS LOT 91
Address 605 S 48th Ave West Richland, WA 99353
Legal Acres 2.4300
Year Residence Built 1984

29. February 6, 2014 Benton County Assessor Historical Deed and Sales History

Quit Claim Deed Patricia Carranza and Matilde Carranza, Grantors, to Matilde Carranza, Grantee

30. July 31, 2019 City of West Richland Analysis of BLM Historical Offers of Dedication

The City of West Richland made an analysis of the Bureau of Land Management’s historical offers of dedication of 33 feet right-of-way/easements for roadway and public utility purposes in Willamette Heights Sections 6 and 8.

In early 2018, the City of West Richland embarked on a public process to formally accept portions of the offers of dedication contained in the BLM federal land patents for lots located in Willamette Heights Sections 6 & 8. Portions of the offers of dedication that are not formally accepted, or that have not been previously accepted by the City, will be declined. If declined, the City will no longer deem these portions to be valid offers of dedication for future public use. The City’s staff has drafted exhibits for each lot in Willamette Heights Sections 6 & 8 within West Richland’s city limits showing the portions of the BLM offers of dedication the City formally plans on accepting for the City’s existing and planned roadways and infrastructure. It is likely that the City Council will be taking formal action regarding this matter later in 2019.

31. October 8, 2019 City of West Richland Mailed Letter for Public Open House Meeting on Historical Offers of Dedication Affecting Willamette Heights

BLM OFFERS OF DEDICATION FOR FEDERAL PATENTS AFFECTING WILLAMETTE HEIGHTS SECTIONS 6 & 8. The City has engaged in an area-wide and parcel-specific policy analysis to determine which right-of-way to accept as dedications and which are not needed. Declining the rights-of-way that are not needed will help make this land available to owners because it will help confirm the City’s formal determination that the rights-of-way are no longer appropriate for City purposes.

- The area can be generally described as Section 6, Township 9 N, Range 28 E, W.M. **AND**
- Certain “lots” of Section 8, Township 9 N, Range 28 E, W.M.as they were identified and named when first established by patent by the federal government: Lots 4-10, 13-22, 25-31, 45-54, 77-86, 109-118, 141-150, 173-182, 205-257; Located in the City of West Richland, Benton County, Washington.

32. October 25, 2019 City of West Richland Acceptance of Offer of Dedication on Website

The Patent for Lot 91 Sec 6 WH reads: This patent is subject to a right-of-way not exceeding 33 feet in width, for roadway and public utilities purposes, to be located along the north and east boundaries of said land.

The North and East boundaries have been and remain natural habitat vegetation and home for wildlife.

As of 07/31/2019 is written ACCEPTANCE OF OFFER OF DEDICATION AS FOLLOWS: · 33-FOOT ACCESS AND UTILITY EASEMENT ALONG THE NORTH AND EAST BOUNDARY · NORTH 10-FEET OF THE 33' UTILITY EASEMENT ALONG THE NORTHERN BOUNDARY

Revised 10/08/2019 is written: ACCEPTANCE OF OFFER OF DEDICATION AS FOLLOWS: · 33-FOOT ACCESS AND UTILITY EASEMENT ALONG THE EAST BOUNDARY · NORTH 10-FEET OF THE 33' UTILITY EASEMENT ALONG THE NORTHERN BOUNDARY

33. City of West Richland Resolution No. 38-19 Setting Public Hearing Date For Offers of Dedication
A RESOLUTION OF THE CITY OF WEST RICHLAND, WASHINGTON, SETTING THE PUBLIC HEARING DATE TO

CONSIDER ADOPTING AN ORDINANCE ACCEPTING AND DECLINING OFFERS OF DEDICATION OF FEDERAL LAND PATENTS FOR SECTION 6 AND 8

WHEREAS, from time to time the City has been asked by persons who own or who have an interest in real property in Section 6 and the portion of Section 8 located in the city limits, both Township 9 North, Range 28 East, Willamette Meridian, to identify a process for evaluating and confirming, so far as the City is able to do so, the status of right of way reservations created by the Small Tract Act in said Section 6 and Section 8; and

WHEREAS, formal legislative action by the City to evaluate and confirm certain of said right of way reservations, which the City construes as offers of public dedication, may achieve benefits for the public interest by clarifying the City's interests in the offers of dedication; and

WHEREAS, a public hearing to consider an ordinance proposed to accept and decline offers of dedication consistent with the right of way reservations in the federal land patents for Section 6 and Section 8, together with an explanation and assessment of the City's process of identifying which offers of dedication should be formally accepted because of their importance to orderly future development of the City, as well as accommodation of public infrastructure, the needs of the City's franchise holders, and other purposes in support of the general public health, safety, and welfare, is one of the best ways to obtain public input;

NOW, THEREFORE, the City Council of the City of West Richland, does hereby resolve as follows:

Section 1. There shall be a public hearing to consider an ordinance proposed to accept and decline offers of dedication consistent with the right of way reservations in the federal land patents for Section 6 and the portion of Section 8 located in the city limits, both Township 9 North, Range 28 East, Willamette Meridian, before the City Council of the City of West Richland, Washington, at its regularly scheduled meeting to be held on the 19th day of November, 2019, at 6:00pm.

Section 2. This resolution shall be in effect immediately upon approval.

PASSED by the City Council of the City of West Richland, Washington, this 5th day of November, 2019.

Brent Gerry, Mayor

ATTEST:

Julie Richardson, City Clerk

APPROVED AS TO FORM:

Bronson Brown, City Attorney

34. November 8, 2019 City of West Richland Mailed Letter of Invitation To Public for Historic Offers of Dedication

The City of West Richland will be holding a public hearing November 19, 2019, on the City's analysis of the bureau of Land Management's historical offers of dedication of 33 feet rights-of-way / easements for roadway and public utility purposes in Willamette Heights Sections 6 & 8. The City Council will not be taking formal action regarding this matter on November 19, 2019.

In early 2018, the City of West Richland embarked on a public process to formally accept portions of the offers of dedication contained in the BLM federal land patents for lots located in Willamette Heights Sections 6 & 8. Portions of the offers of dedication that are not formally accepted, or that have not been previously accepted by the City, will be declined. If declined, the City will no longer deem these portions to be valid offers of dedication for future public use.

The City's staff has drafted exhibits for each lot in Willamette Heights Sections 6 & 8 within West Richland's city limits showing the portions of the BLM offers of dedication the City formally plans on accepting for the City's existing and planned roadways and infrastructure.

The City has now set a public hearing so that interested residents may participate in the City's consideration of the BLM offers of dedication prior to formal action of the City Council on this issue.

WHEN: TUESDAY, NOVEMBER 19, 2019
6:00 PM
WHERE: WEST RICHLAND MUNICIPAL SERVICES FACILITY
3100 BELMONT BLVD.
WEST RICHLAND, WA 99353

Please visit the City's website (www.westrichland.org) for more information. Additionally, if you have further questions or concerns, please contact:

City of West Richland
Public Works Department
3100 Belmont Blvd., Suite 102
West Richland, WA 99353
(509) 967-5434
roscoe@westrichland.org

On reverse side of letter was (#31) City of West Richland Resolution No. 38-19 Setting Public Hearing Date For Offers of Dedication

35. November 19, 2019 City of West Richland Public Hearing on Historical Offers of Dedication

The City of West Richland's legal counsel is scheduled to present a public presentation to be followed with public comments regarding Section 6 and Section 8 BLM Land Patentee's right-of-way in relationship to United States of America November 18, 1981 Notice in Register Termination of Classification.

36. West Richland Municipal Code (WRMC) 17.24.010 Purpose

Low-density residential districts provide for a low-density residential environment which may serve to protect steep slopes from over-development or otherwise address environmental constraints. The districts are also applied to areas where provision of full urban services is unlikely to occur due to existing development patterns and topographical restraints (e.g., isolated portions of Section 6 and

Section 8 of Willamette Heights). The RL-40 district may include agricultural uses and activities. [Ord. 15-17 § 1 (Exh. A), 2017; Ord. 24-12 § 1 (Exh. A), 2012; Ord. 40-07 § 1, 2007].

37. West Richland Municipal Code (RMC) 17.54.050 Area and Dimensional Regulations

I. Easements. Notwithstanding the setbacks specified in Table 17.54.050, no building is to be located within an established easement, or as permitted by WRMC 17.54.055(B)(3)(f) pertaining to Sections 6 and 8 of Willamette Heights.

J. Lot Size. The minimum lot sizes indicated in Table 17.54.050 apply when the lot is served with city water and city sewer services. When the lot is not served with city water and city sewer, minimum lot size for new lots is 10 acres excluding the RL zoning district which may reduce to five acres with the following exception:

Exception: Minimum lot size in the RL-40 zoning district shall remain at 40,000 square feet when the existing lot (before division or reconfiguration) is greater than 500 feet from city sewer, and served with city water.

- *Lot 91 Section 6 Willamette Heights is zoned RL-40; has septic and served with city water.*

38. Washington Administrative Code (WAC) 365.196-300 (g)(4) Development in Hazardous Areas

Limits development in geological hazardous areas (sand and steep slopes). See number 37 above.

39. Benton County Office of the Assessor

A. Benton County Assessor Mission Statement

www.co.benton.wa.us

“Our mission is to administer a property assessment system, which meets constitutional and statutory requirements, in an efficient and professional manner, while striving to provide courteous and excellent service to our customers. The Benton County Assessor’s Office is responsible for determining the value of all taxable real and personal property in the County, set on a foundation that those determinations are fair and understandable. This is done in accordance with Washington State law, which requires that all properties are assessed at 100% of fair market value. In addition, the Assessor’s Office manages accessible property information, provides timely and accurate assessments for tax purposes, and maintains a detailed parcel map of all parcels within the County.”

B. Benton County Assessor

The Assessor identifies and determines the value of all taxable real and personal property in the county. These values are used to calculate and set levy rates for the various taxing districts and to equitably assign tax responsibilities among the taxpayers. Details of individual parcels and properties is a must-have online resource. People want to be able to access their own details and others of interest. Plat size, sales history, assessed value, local sales and much more are displayed in a simple easy to use format.

In accordance with RCW 36.16 the public elects the Assessor to a four-year term. Duties and responsibilities of the Assessor are contained largely in state laws and administrative codes. The Assessor works closely with the Washington Department of Revenue to implement these laws and codes. Besides valuing all existing and new construction taxable property the Assessor’s office is responsible for other important programs. Other functions including appraisals, are the senior citizen and disabled person exemption programs. Another important program for a county such as ours that has diversified agriculture is the farm exemption, otherwise known as “Open-Space”. Besides calculating the senior and junior taxing districts budget allotment to determine their various levy rates, we must also maintain land records, which can encompass segregation’s of plats, “short and long” and

consolidations. These and other functions explain some of the many responsibilities that the Assessor's office provides to all citizens within Benton County.

C. Role of the Assessor's Office

Appraise and add all real and personal property new construction valuations to the tax base. Preserve and provide accurate property ownership, parcel database and cadastral mapping for all property.

D. Assessor Services Provided:

Assessor's Database Management

Retain accurate property ownership/taxpayer, parcel inventory data, taxing district boundary definitions, land use definition, assessed valuation data, and mapping for all properties and accounts.

New Construction Valuation

Inspects and determines value of new construction.

Personal Property Valuation

Businesses must report their equipment and asset listings annually. These are valued at 100% assessed value to market value.

Public Assistance

Provide information, education, and assistance to public inquiries by phone and at our physical office. Daily updates of record changes assist our website to be current for our website users.

Real Property Revaluation

Physically inspect and statistically revalues real property parcels on an annual basis, to maintain a 100% assessed value to market value relationship.

Tax Roll Processing

Process assessment roll to certification as a Property Tax receivable collection roll for the Treasurer's billing, collection and distribution. Report and audit verification are required by statute, and accurate calculations and distributions must be provided.

Valuation Defense

Answers to valuation and procedures before a distinct and separate administrative appeals.

SUMMARY FOR LOT 91 SECTION 6 OF WILLAMETTE HEIGHTS

Congress was created by the Constitution of the United States and first met in 1789. The Small Tracts Act (STA) of 1938, enacted by Congress, was about the only method of making federal land available to persons looking for small acreages. Local counties were enthusiastic about 'getting lands on the tax rolls' and were not concerned about infrastructure (roads, water, power, schools) to support such development.

The State of Washington, included in the Oregon Territory, title to which was established 1846 and admitted in the Union 1889, retains records in the Oregon State Office of the Bureau of Land Management (BLM) in Portland, Oregon.

The State of Washington established Benton County in 1905. The mission of the Benton County Assessor's office is to administer a property assessment system which meets constitutional and statutory requirements and is done in accordance with Washington State Laws and Administrative Codes. The office must also maintain land records which can encompass segregation's of plats, "short and long" and consolidations. The assessor works closely with the Washington State Department of Revenue to implement RCW 84.36.210 that easement rights shall be exempt from taxation and ensuring all property tax records of the county and tax statements relating to the servient property shall show the existence of such easement and that it is exempt from the tax; and any notice of sale and tax deed relating to the servient property shall show that such easement exists and is excepted from the sale of the servient property.

United States President Harry S. Truman combined two existing agencies to create the Bureau of Land Management (BLM) in 1946. The BLM utilizes a legal description/land description as the method of locating or describing land in relation to the public land Cadastral survey system, which was established by law in 1785, under the Articles of Confederation.

West Richland, Washington was officially incorporated on June 13, 1955. In August 1955, Benton County Engineer, Willard Goss, certified that the Plat of Willamette Heights is based on an actual survey and the subdivision of Section 6, Township 9 North, Range 25 East and lot corner stakes have been set according to the Plat.

A Dedication of the BLM Plat of Willamette Heights was signed by Robert B. Officer, representative of the United States, through the Department of the Interior, Bureau of Land Management, who declared the United States, owner of the land shown in the Plat of Willamette Heights is in agreement with the platting of said tract into lots. The BLM Plat Map of Section 6 Willamette Heights was filed with the Benton County Auditor in 1956.

The Bureau of Land Management offered patent lots at Small Tract Public Auctions. In 1963, the United States of America, Grantor of Land Patent Number 1233957, historically deeded Lot 91, Section 6, Willamette Heights, to Charles A. Mansius, Grantee. The Federal Land Patent Number 1233957, platted from a 1956 Dedication of the BLM Plat of Willamette Heights, was subject to a right-of-way not exceeding 33 feet in width, for roadway and public utilities purposes, to be located along the north and east boundaries of said land.

The State of Washington RCW 64.04.175: Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

January 1981, the City of West Richland Annexation Ordinance 412 annexed and provided zone classifications for the area known as Willamette/Horn into the City of West Richland.

The Small Tract Act of 1938 did not establish or reserve rights-of-way in leases or patents, but created a common law dedication that disappeared if the rights-of-way were not accepted by actual use before classification was terminated. The classification was terminated via a Notice in the Federal Register on November 18, 1981.

- Question: What is the status of the 33-foot easements mentioned in the land patents for Bureau of Land Management parcels?
- Answer: From the BLM Oregon/Washington State Office on the topic of the 33-foot easement common to the Small Tract Act of 1938 patents:

“BLM reviewed this question in detail in the early 1990's, and issued guidance as to **whether or not a public easement exists on patented land**. That guidance states that the Small Tract Act of 1938 did not establish or reserve rights-of-way in leases or patents, but **created a common law dedication** that disappeared if the rights-of-way were not accepted by actual use before classification was terminated.

The classification was terminated via a Notice in the Federal Register on November 18, 1981. Upon termination of the classification order the United States released all interest in the lands to the patentee, subject to any right-of-way for road or public utilities that may have been established prior to termination. If no such right-of-way was established prior to termination, the reservation language became null and void, and no right-of-way exists.

- If a right-of-way was established through actual use prior to November 18, 1981, the authority to vacate such right-of-way rests with local and county officials.
- With that, it looks like the only remaining question is whether or not a right-of-way was established by actual use”

In 1984, three years after the 1981 Notice of Termination in the Federal Register vacating unused rights-of-way, Ralph M. and Marjorie A. Cable built a single family residential home on the vacant Patent Lot 91, Section 6 they had purchased from the previous owner in 1980. The utility services were a septic system and city water established on Lot 96 ‘actual use’ right-of way’.

In 1993, the West Richland City Council adopted a local roadway plan for Section 6 which has been amended in 1999, 2006, 2014, 2018 and again in 2018.

September 1996 William Gilbert, West Richland Public Works Director, mailed a letter to W.F Brown (Lots 96 and 97) congratulating Brown and the four neighbors (Lots 123, 91, 92, and 95) on the completion of a fine project hiring A & B Asphalt to pave South 48th Avenue (paved from Bombing Range Road along east boundary of Lot 123 and Lot 96 adjacent to the southeast corner of Lot 91). The one ADA Blind/Hearing Impaired senior with four other senior citizen (some medically challenged as per recent Ambulance visits) have personally paid for the maintenance of South 48th Ave, snowplowing to provide access for emergency vehicles and transport for food/medical (i.e.; 2016 snowstorm and February to March 2019 snowstorm and, in September 2018, crack sealing 164 feet of 48th Avenue asphalt. This section of BLM right-of-way was established as ‘actual use’ road access to Lots 123, 96/97,

and 92 prior to November 18, 1981. The August 5, 1974 Quit Claim from lot 123 to GTE together with the November 2019 locating of underground utilities on the east boundary of Lot 96 for purpose of constructing a home establishes 'actual use' per November 18, 1981 Notice of Termination. This asphalt section of 48th Ave belongs to the City of West Richland but is being maintained by private citizens.

There is a city sign "DEAD END NOT A THROUGH STREET" on South 48th Avenue where the Lot 123 AF#1998-009645 quit claim ends and lot 96 begins. The east boundary of Lot 91 is vegetation with no road 'actual use'. Lot 63 maintains the sand/gravel 'actual use' road access to Collins.

There are no landlocked lots for 48th Avenue. WRMC 17.24.018, WRMC 17.54.050 and Washington State WAC 365.191.300 (g)(4) indicate full urban services is unlikely to occur due to existing development patterns and topographical restrains. Residents have city water but use septic system. Due to Bombing Range being such a steep road, making 48th Ave a through street from Bombing Range Road to Collins may create dangerous traffic 'shortcut' and noise impacting the public peace, morals and welfare (West Richland Chapter 9.38).

In 2013, widow Marjorie A. Cable signed a Statutory Warranty Deed, selling LOT 91 SECTION 6 OF WILLAMETTE HEIGHTS to Patricia and Matilde Carranza.

CONCLUSION FOR LOT 91 SECTION 6 OF WILLAMETTE HEIGHTS

W.R. Accepting & Declining Offers of Dedication of Federal Land Patents for Section 6 & 8

The Small Tract Act of 1938 did not establish or reserve rights-of-way in leases or patents, but created a common law dedication that disappeared if the rights-of-way were not accepted by actual use before classification was terminated. The classification was terminated via a Notice in the Federal Register on November 18, 1981.

- If no such right-of-way was established prior to termination November 18, 1981, the reservation language became null and void, and no right-of-way exists.
- If a right-of-way was established through actual use prior to November 18, 1981, the authority to vacate such right-of-way rests with local and county officials.

Per RCW 84.36.210 easement rights shall be exempt from taxation.

Per RCW.84.36.210 the Benton County Assessor's legal description (lot w/no easement rights) on all property tax records of the county and tax statements for Lot 91 Sec 6 is proof that no such easement rights exist.

Per RCW 84.36.210 the Deed of Trust legal description for Lot 91 Sec 6 is proof no easement rights exist. Subsequently, the property owner pays property tax on the entire lot as there are no easement rights.

Therefore, based on the Historical Reference and Summary for Lot 91 Section 6 of Willamette Heights, it appears the City of West Richland has no easement rights to accept and no easement rights to decline for all four boundaries of Lot 91 Section 6 of Willamette Heights.

Thank you. City Council, for your support of the general public health, safety and welfare for the Federal land patent property owners of Section 6 located in the city limits of Township 9 North, Range 28 East, Willamette Meridian, West Richland, Washington, County of Benton, United States of America.

In response to the November 5, 2019 Memorandum from Kenne Harper to the City of West Richland Council Members from Lot 91 Sec 6 of Willamette Heights:

In I. Introduction, paragraph 3 cites "Classification Order No. 5 contained a provision stating that access to public highways from tracts leased or sold pursuant to it would ' be afforded by a reservation of rights of way along the boundary of each tract for road or public utility facilities which will not exceed 33 feet in width'..." therefore the land patents issued by the BLM contained written rights of way.

Paragraph 5 cites, Classification order No 5 was terminated and withdrawn by the BLM on 11/18/1981.

- From the BLM Oregon/Washington State Office on the topic of the 33-foot easement common to the Small Tract Act of 1938 patents:

"BLM reviewed this question in detail in the early 1990's, and issued guidance as to **whether or not a public easement exists on patented land**. That guidance states that the Small Tract Act of 1938 did not establish or reserve rights-of-way in leases or patents, but **created a common law dedication** that disappeared if the rights-of-way were not accepted by actual use before classification was terminated.

The classification was terminated via a Notice in the Federal Register on November 18, 1981. Upon termination of the classification order, the United States released all interest in the lands to the patentee, subject to any right-of-way for road or public utilities that may have been established prior to termination. If no such right-of-way was established prior to termination, the reservation language became null and void, and no right-of-way exists.

If a right-of-way was established through actual use prior to November 18, 1981, the authority to vacate such right-of-way rests with local and county officials.

With that, it looks like the only remaining question is whether or not a right-of-way was established by actual use"

In II Legal Analysis, A. paragraph 1, the Memorandum 91-196, dated 02/25/1991, agrees the right-of-way had been given to the Patentees effective 11/18/1981. According to IM 91-196, with the 11/18/1981 Notice of Termination these dedications disappeared 'to the extent' they were 'not accepted by actual use'. In 2/08-2017 letter from BLM Border Field Manager Babcock to West Richland resident Hofstad, cited to the language from IM 91-196 . *If no such right-of-way was established prior to termination, the reservation language became null and void, and no right-of-way exists (same as Oregon/WA State Office.*

In II, paragraph 3, When the federal government issues a land patent, ' in accordance with governing statutes, all title and control of the land passes from the United States". Based upon these rules of law, *the United States released all interest in the lands to the patentee, subject to any right-of-way for road or public utilities that may have been established prior to termination.*

In 11 Legal Analysis, B, The US Supreme Court has long held that issues regarding property ownership or interests in real property are governed by state law rather than "general federal law".

Since the United States, original owner of Patent Land, released all interest in the lands to the Patentee, the new owner it would appear the US Supreme Court holds regarding property ownership or interests in real property are governed by state law. Therefore, per

State of Washington RCW 64.04.175 Easements Established By Dedication – Extinguishing or Altering

Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement. (1991 c 132 1)

It would appear that easements established by a dedication are property rights that cannot be extinguished or altered with the approval of the easement owner(s)...which is the current Patent property owner; not the City of West Richland.

In addition there is another Washington State Law which the Benton County Assessor, together with the Department of Revenue, must follow to meet constitutional and statutory requirements:

Washington State RCW 84.36.210 Public Right-Of-Way Easements

Whenever the state, or any city, town, county or other municipal corporation has obtained a written easement for a right-of-way over and across any private property and the written instrument has been placed of record in the county auditor's office of the county in which the property is located, the easement rights shall be exempt from taxation and exempt from general tax foreclosure and sale for delinquent property taxes of the property over and across which the easement exists; and all property tax records of the county and tax statements relating to the servient property shall show the existence of such easement and that it is exempt from the tax; and any notice of sale and tax deed relating to the servient property shall show that such easement exists and is excepted from the sale of the servient property.

Per RCW 84.36.210 easement rights shall be exempt from taxation.

Per RCW.84.36.210 the Benton County Assessor's legal description (lot w/no easement rights) on all property tax records of the county and tax statements for Lot 91 Sec 6 is proof that no such easement rights exist.

Per RCW 84.36.210 the Deed legal description for Lot 91 Sec 6 is proof no easement rights exist.

Subsequently, the property owner pays property tax on the entire lot as there are no easement rights.

The classification was terminated via a Notice in the Federal Register on November 18, 1981.

- If no such right-of-way was established prior to termination November 18, 1981, the reservation language became null and void, and no right-of-way exists.
- If a right-of-way was established through actual use prior to November 18, 1981, the authority to vacate such right-of-way rests with local and county officials.

Therefore, it appears the City of West Richland has no easement rights to accept and no easement rights to decline for all four boundaries of Lot 91 Section 6 of Willamette Heights as rights-of-way (easement rights) were not accepted by actual use before classification was terminated 11/18/1981.

I appreciate the conclusion of the Memorandum is consistent with previous judicial decisions from the states of Arizona, Nevada and Alaska. However, this is the State of Washington and laws vary from state to state.

Thank you. City Council, for your support of the general public health, safety and welfare for the Federal land patent property owners of Section 6 located in the city limits of Township 9 North, Range 28 East, Willamette Meridian, West Richland, Washington, County of Benton, United States of America.